

Members

Sen. Marvin Riegsecker, Chairperson
Sen. Rose Ann Antich
Rep. Sheila Klinker
Rep. Robert Alderman
Sylvia Marie Brantley
Christopher Durcholz
Suda Hopkins
Sally Lowery
Ervin Picha
Joanne Rains
Thomas Van Meter
Betty Williams



INDIANA COMMISSION ON MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

LSA Staff:

Carrie S. Cloud, Attorney for the Commission
Ron Sobecki, Fiscal Analyst for the Commission

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MEETING MINUTES¹

Meeting Date: August 17, 1999
Meeting Time: 1:30 P.M.
Meeting Place: Muscatatuck State Developmental
Center, Chapel
Meeting City: Butlerville, Indiana
Meeting Number: 2

Members Present: Sen. Marvin Riegsecker, Chairperson; Sen. Rose Ann Antich;
Rep. Sheila Klinker; Sylvia Marie Brantley; Christopher
Durcholz; Suda Hopkins; Ervin Picha; Joanne Rains; Betty
Williams.

Members Absent: Rep. Robert Alderman; Sally Lowery; Thomas Van Meter.

LSA Staff Present: Carrie S. Cloud, Staff Attorney; Ron Sobecki, Fiscal Analyst.

Call to Order

Senator Riegsecker called the meeting to order at approximately 1:55 p.m., after Commission members had completed a brief tour of the center. After having the

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commission members and staff introduce themselves, Senator Riegsecker thanked the persons in the audience for their attendance at the meeting and thanked the center's administration and staff for their cooperation in the tour.

Comments from the Division of Disability, Aging & Rehabilitative Services on the operation of Muscatatuck State Developmental Center

Ms. Debra M. Simmons Wilson, Director, Division of Disability, Aging & Rehabilitative Services (DDARS), provided Commission members with a handout of materials prepared in response to several questions asked by Commission members at the previous meeting. The information contained in the handout, and briefly overviewed by Ms. Wilson, was as follows: per diem rate information; developmentally disabled waiver quality assurance overview; New Castle State Developmental Center and Northern Indiana State Developmental Center follow along study; Central State Hospital discharge tracking study; and Bureau of Developmental Disabilities Services brochure. (A copy of this handout, referred to as "Exhibit A", is on file with the Legislative Information Center.)

Senator Riegsecker asked Ms. Wilson to comment on the events that had occurred over the past few days involving the former Acting Superintendent of the center, Richard O'Brien. Ms. Wilson stated that due to the fact that there was still an active investigation, she could not comment on many issues, but that the basic facts were as follows: Mr. O'Brien came to Muscatatuck State Developmental Center (MSDC) in mid-April of this year as an employee of Liberty Healthcare when DDARS contracted with Liberty in an effort to address the problems that led to the center losing its certification for receipt of federal Medicaid funds. According to Ms. Wilson, Mr. O'Brien was immediately released from his duties in mid-August due to his poor judgment in having a relationship with an employee of the center. Mr. Wendell Hunt, also a Liberty employee who came to the center in mid-April, had been named as the new Acting Superintendent. Ms. Wilson also stated that after Mr. O'Brien's resignation had been accepted, information was received regarding Mr. O'Brien's possible involvement with a couple of residents of the center. This information is still being investigated by the Indiana State Police.

In response to a question from Representative Klinker, Ms. Wilson stated that the employee involved in the relationship with Mr. O'Brien is still employed at the center. Representative Klinker expressed concern that DDARS take any and all action necessary to assure that the residents of the center remain safe from harm. Ms. Wilson agreed that the safety of the residents is the division's primary concern. Responding to questions from Senator Antich regarding why Mr. O'Brien had been released but the employee was still employed at the center when the relationship apparently occurred on the center's premises, Ms. Wilson stated that along with having to consider the rights of the employee, the division had held Mr. O'Brien to a higher set of standards because he was in a leadership capacity. In addressing a concern raised by Commission member Sylvia Brantley, Ms. Wilson stated that the residents who were alleged to have been involved with Mr. O'Brien do have communication skills so the state police are able to get some information regarding whatever may have occurred. Representative Klinker requested of Ms. Wilson that as the investigation continues, DDARS take into account the public perception that one wrongdoing may indicate the presence of other wrongdoings and to try to

balance the rights of the involved employee with the rights of the residents, and possibly consider transferring the employee to a different job where there would be less contact with residents.

Senator Riegsecker expressed to Ms. Wilson his appreciation for her openness in discussing the events involving Mr. O'Brien. Ms. Wilson told the Commission that on the day after Mr. O'Brien resigned, she met with many of the employees of the center to reaffirm that the primary responsibility of the center is to provide quality care for the residents. Ms. Wilson commented that any negative blows to the center not only affect the residents, but the staff as well.

Ms. Wilson introduced the new Acting Superintendent of the center, Wendell Hunt. Mr. Hunt told the Commission members that he has had an interest in working with developmentally disabled persons since 1960, having started working in the field at the entry level and having worked in various capacities, including Superintendent, in mental retardation and psychiatric hospitals in several states. Mr. Hunt stated that his priorities as Acting Superintendent of MSDC are client protection, active treatment that will allow each resident to achieve his or her maximum lifestyle and opportunities, and staff training and development.

Commission member Sylvia Brantley expressed concern to Mr. Hunt that when the group she was in toured one of the residence buildings before the meeting, there were several doors that were shut. She also stated that only one room was open, and only six residents were inside. Mr. Hunt stated that there could be many reasons for such conditions to exist and he would have to check into the situation. Ms. Wilson observed that the rooms with closed doors were probably bedrooms, as the staff generally closes bedroom doors when the residents are not in the room. In addition, Ms. Wilson stated that some of the residents may have been out of the building attending other activities on the campus.

Senator Riegsecker asked Mr. Hunt if he thought the center, once Liberty's contract with the center concludes, would fall back into the situation it had been in before Liberty came in and brought its personnel and expertise. Mr. Hunt responded that he could not make any guarantees, but that it was his intention to develop systems that would be adequate to carry things forward, based on DDARS' overall strategic plan for the center. Responding to a concern raised by Senator Riegsecker, Mr. Hunt remarked that he believes the people are out there to carry on with whatever systems are developed. He observed that the public-private partnership would be important in this area. In addition, an aggressive plan to recruit and compensate staff is essential.

In response to a question raised by Representative Klinker, Mr. Hunt stated that Liberty Healthcare uses the same system to check the background of potential employees at MSDC as DDARS does. Mr. Hunt also stated that Richard O'Brien had been subjected to a thorough background check before coming to MSDC and no blemishes had been found. Mr. Hunt informed the Commission that Mr. O'Brien is no longer employed by Liberty Healthcare.

Senator Riegsecker asked when a permanent Superintendent would be named for MSDC. Ms. Wilson stated that her goal is to start a national search for a new

Superintendent in November, but that getting the center recertified for federal Medicaid funds is currently the major focus of activity.

Public Testimony

Senator Riegsecker passed out to Commission members a letter he received from a constituent who has a brother at MSDC and a letter his constituent received from Ms. Wilson in response to an earlier communication she had sent to Governor O'Bannon. (A copy of each of these handouts, referred to as "Exhibit B" and "Exhibit C", respectively, is on file with the Legislative Information Center.)

Charlie Cox, parent of an autistic son who resides at MSDC and a member of the 317 Task Force, told the Commission that he and his wife were very happy with the staff of MSDC and the care that their son receives. He also told the Commission that their son had suffered some injuries in the last few weeks as the result of the discontinuation of a restraint technique called "matting" that had been successfully used in the past to prevent their son from hurting himself or others. Mr. Cox stated that he and his wife had expressed their concern to Mr. O'Brien, who was still Acting Superintendent at the time, but had not received any response they felt was satisfactory. Mr. Cox asserted that it was important for center administration and staff to develop suitable alternatives to practices that the Department of Justice (DOJ) stated should be discontinued and not to just stop those practices if doing so would result in injury to residents or staff.

Frances Egner, parent of a daughter who resides at MSDC and President of the Muscatatuck Association for Retarded Citizens (MARC), told the Commission that her daughter is happy at MSDC. Mrs. Egner asserted that most of the staff at MSDC are very good and that the residents get good care. Mrs. Egner also commented that since the DOJ had issued its admonition that restraints not be used and medications be used less, there have been more problems at the center, including an injury to her daughter. Mrs. Egner informed the Commission that most families of MSDC residents do not want the center to be closed and that they are under a great deal of stress because the future of MSDC is uncertain.

Barbara Jenkins, parent of a daughter who has resided at MSDC for 33 years, remarked that the recent scandal involving Mr. O'Brien was regrettable, but that she felt secure in the fact that there are enough good people on staff at MSDC that any future occurrence like that would be reported. She stated that she is happy with the treatment that her daughter receives, including her medication, and that the staff at MSDC is "a 15 on a scale of one to 10." Mrs. Jenkins also expressed concern over what she believes to be a lack of oversight of group homes.

Frank Lori, parent of a son who has resided at MSDC for 30 years, stated that his son has always received good care. Mr. Lori said that 25 years ago he might not have objected to the closing of MSDC, but that the facility is much better now and the staff is very good. Responding to Representative Klinker's question regarding what changes to the center had improved his opinion of it, Mr. Lori stated the following: the air conditioning of buildings; smaller resident groups; smaller activity rooms; fewer residents sharing rooms; and better staff.

Irene Homan, parent of a son who has been a resident at MSDC for 27 years, told the Commission that her son's quality of life over the past two or three years was the best it has ever been. She stated that her son receives excellent care and that the only problems he has had have occurred since the DOJ investigation. An example that she related to the Commission was that, as the result of one of her son's medications being taken away, her son had to be hospitalized.

Bob Egner, parent of a daughter who resides at MSDC and husband of Frances Egner, remarked to the Commission that the public never hears about individuals who are moved out of an institutional setting into the community only to return to an institutional setting. Mr. Egner reminded the Commission that "group homes are not for everyone."

Miriam Ogan, parent of a daughter who resides at MSDC, told the Commission that her daughter has been in many institutions over the years, both public and private, and MSDC is the best. Mrs. Ogan stated that her daughter is not restrained all the time like she had been at some other institutions and that her daughter's social worker is always available to speak to Mrs. Ogan. Mrs. Ogan commented that Liberty Healthcare was doing a great job before the DOJ investigation.

Bea Nicosin, parent of a son who has resided at MSDC since 1951, asserted to the Commission that parents of residents at MSDC want to know what the problems are so that they can help form solutions.

Mary Louise Wesselman, parent of a child at MSDC, echoed Mrs. Nicosin's remarks about the parents' interest in what the problems are and their willingness to help. Mrs. Wesselman also announced her appreciation for the staff of MSDC.

Senator Riegsecker thanked the parents for their comments and stated that the situation at MSDC did not seem to be as bad as he had thought before the meeting. He also stated that if at some future point the decision was made to close MSDC, he hoped that the decision would be driven by the needs of the residents, not as a reaction to trouble.

Next Meeting & Adjournment

The next meeting of the commission will be held on Thursday September 2, 1999 at 1:30 p.m. at the Fort Wayne State Developmental Center. Prior to the meeting, Commission members will tour the facility.

There being no further business to come before the commission, Senator Riegsecker adjourned the meeting at approximately 3:40 p.m.